

# Time for a Post-Partisan Broadband Debate

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BY ROBERT D. ATKINSON | SEPTEMBER 2008

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Whatever one thinks about either presidential candidate this year, one thing is striking; they both are talking about the importance of ending the bitter and destructive partisan battles in Washington. Regardless of who wins in November, there is no better place to start this task than with broadband policy, for the current broadband debate has degenerated into a highly partisan, ideological, and bitter battle increasingly devoid of real analysis and lacking in any measure of civility. To say the least, this is certainly troubling, for it's extremely difficult to make good public policy in an environment like this. This partisan debate plays itself out in at least four areas:

## Our International Broadband Position

As everyone in the debate knows, the U.S. rank in broadband has fallen. And rather than work to come to a consensus about what this means, the right and the left engage in shouting matches.

**To the right:** Stop denying that the United States has lagged behind other nations in broadband and that we have a real challenge ahead of us. The right will bend over backwards to find any reed, no matter how thin, to attempt to show that the U.S. decline in OECD broadband rankings over the last 8 years is meaningless. But as ITIF shows in "Understanding International Broadband Leadership," our decline is real and is partially related to differences in public policies.

**To the left:** Stop claiming that our middling ranking is entirely due to a bankrupt broadband policy. ITIF research shows that our decline is only partly about policy: a lot of it has to do with non-policy factors like high urban densities in countries like Japan and Korea; shorter loop lengths in countries like France and Sweden; and higher computer ownership in many other nations that really do help when it comes to spurring take-up of broadband.

## Net Neutrality

There is perhaps no more contentious issue than net neutrality. The right says these are private networks and the owners can do whatever they want. The left elevates (and misreads) the importance

of the Internet's original architecture, which served us well, a narrowband era, but is not well suited to the unique needs and capabilities of a broadband era.

**To the right:** Acknowledge that private broadband networks are imbued with some public interest characteristics and that some were built on the back of subsidized infrastructure. As such, broadband providers have public interest obligations and should not be allowed to do whatever they want on "their" networks. Moreover, recognize that broadband providers do have business incentives that could conflict with an open network (as we saw in the Madison River case of blocking VOIP service) and that there is a legitimate role for government oversight in these cases. This is not a case where the market will take care of everything and where consumers will vote with their feet against any providers that attempt to block content.

**To the left:** Stop claiming that instituting strict net neutrality laws has anything to do with increasing broadband take up or investment. There may be legitimate reasons to argue for net neutrality rules, but claiming that passing such laws will increase our international rankings simply has no logical basis. Moreover, stop pining for the good old days of the Internet that never existed. The Internet was always "managed" and bits were always treated differently. The issue is not whether complex, advanced networks should be managed, but rather under what conditions should they be.

Finally, stop taking liberties with the facts to portray the actions of broadband providers in the absolute worst possible light. For example, AT&T's network never blocked Pearl Jam. The content monitors of an AT&T website decided that they wanted to carry Pearl Jam's music and not Pearl Jam's political views. This is no different from Free Press censoring comments on its own website. There is a difference between blocking network content and blocking content on your own website. AT&T, as with any other website provider, is and should be allowed to control the content on their website. This does not mean they should have the same rights on their networks. Moreover, Comcast never blocked content, downloads, or peer-to-peer (P2P) connections. Rather it employed network management techniques, which included delaying P2P network traffic during peak usage. There were some im-

perfections with this system and Comcast has worked to improve it. In these cases you can realize that companies make mistakes and not all policies are deliberate anticompetitive strategies. In Comcast's case, for example, the company acted in an admittedly sloppy and unfortunate fashion, but it was not seeking to undermine Internet-based video competitors, as reflected by the fact that other non-peer-to-peer downloads were not managed.

## The Role of Competition

There is perhaps no more important question in the debate than whether broadband markets are competitive. The right says broadband markets are robustly competitive. The left says they are monopolistic or at best oligopolistic and yearns for the good old days of the 1990s when regulations spurred intra-modal competition.

**To the right:** Stop pretending that essentially and naturally oligopolistic markets—in this case a critical platform for the delivery of information vital to our economy and society—are fully competitive and require no oversight by government. By any standard measure of competition, the broadband market is simply not as competitive as many other markets. To be sure, this does not lead inexorably to the need for price regulation or other heavy-handed regulatory measures, but neither does it imply a laissez-faire acceptance.

**To the left:** Stop holding up intra-modal competition as the Holy Grail. It is by no means clear that if we had continued the policies of 1990s regarding unbundling of the local loop that we would be in any better position than we are today. While intra-modal competition may spur competitors to compete on the existing loop it can just as easily reduce incentives for the incumbent to upgrade the loop (e.g., extend fiber). With regard to competition between the pipes (inter-modal competition), recognize the importance of, and unique American strength in, inter-modal competition. Moreover, recognize that spurring companies to spend more money to put even more pipes in the ground (or having municipal governments do it) is a very costly undertaking that could just as easily lead to higher prices, not lower ones.

## Overall Broadband Policy

**To the right:** It's time to end your market fundamentalism and acknowledge that broadband is different from other consumer items that the marketplace does an adequate job of producing and distributing. As ITIF noted in "The Case for a National Broadband Policy," there are significant externalities from broadband that mean that relying on private action alone will indicate that we under-invest and under-consume broadband. Moreover, it is time to acknowledge that there is a legitimate role for government in spurring broadband take up.

**To the left:** It's time to end your government fundamentalism and recognize that the private sector, and yes, even big corporations, need to play the key role in providing broadband services. Just because they are big, does not mean that they are bad. And you need to recognize that instituting blanket prohibitions and sweeping regulations on an industry that is still rapidly changing is a risky proposition that needs to be approached with careful analysis and objective debate, not sweeping statements and vague generalizations.

Finally, lest either side fear that I am suggesting a happy "why can't we all get along" message, yes, there will continue to be legitimate differences over broadband policy. The right will be more likely to trust markets and worry about government failures. The left will be more likely to trust government and worry about corporate greed and market failures. But if we are to make progress and make good policy, it's time to pull back from the unwarranted extremism. Maybe it's too much to ask to move to a post-partisan broadband policy world. But who knows, maybe we can set the tone for Washington on all the other contentious issues.

## ABOUT THE AUTHORS

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